

REMARKS

The Application has been carefully reviewed in light of the Office Action mailed October 20, 2004. At the time of this Office Action, Claims 1-21 were pending in the Application and Claims 1-21 were rejected. In order to advance prosecution of this case, Claims 1, 4, 7, 10, 13, 14, 17, 18, 19 and 21 have been amended to overcome the rejections asserted by the Office. It is believed that the amended claims does not involve any introduction of new matters, whereby entry is believed to be in order and is respectfully requested. The Applicant respectfully requests reconsideration and favorable action in this case.

The following actions were taken or matters raised: (I) Claims 1, 2, 4, 5, 7, 8, 10, 11 and 13-15 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ungelsby (US 2,875,982); (II) Claims 1-21 were rejected under 35 U.S.C. § 102(b) as being anticipated by Whalen (US 4,179,954); and (III) Claims 1-11 and 13-21 were rejected under 35 U.S.C. § 102(b) as being anticipated by Seibel (US 5,904,388).

Claims Rejected Under 35 U.S.C. 102(b)

The Office has rejected Claims 1, 2, 4, 5, 7, 8, 10, 11 and 13-15 under 35 U.S.C. § 102(b) as being anticipated by Ungelsby (US 2,875,982), asserting that Ungelsby discloses a gripping device that anticipates the safety device of Claims 1, 2, 4, 5, 7, 8, 10, 11 and 13-15. The Office has rejected Claims 1-21 under 35 U.S.C. § 102(b) as being anticipated by Whalen (US 4,179,954), asserting that Whalen discloses a gripping device that anticipates the safety device of Claims 1-21. The Office has rejected Claims 1-11 and 13-21 under 35

U.S.C. § 102(b) as being anticipated by Seibel (US 5,904,388), asserting that Seibel discloses a gripping device that anticipates the safety device of Claims 1-11 and 13-21.

Claim 1, as amended, recites a safety device for holding a container while extracting liquid contents therefrom with a syringe. The safety device of Claim 1 comprises a first elongated arm and a second elongated arm. The first elongated arm has a first end and a second end and the second elongated arm has a first end and a second end. The first elongated arm is movably attached to the second elongated arm for enabling the arms to be moved between an open orientation and a closed orientation. Mating portions of the arms jointly define at least one container receiving receptacle positioned between the ends when the arms are in the closed orientation. The at least one container receiving receptacle includes a surface configured for engaging side portions of a container disposed within the at least one container receiving receptacle and a surface configured for engaging a bottom portion of the container whereby the receptacle is configured for engaging the container at the bottom and side portions thereof.

Claim 10, as amended, recites a safety device for holding a container while extracting a liquid contents therefrom with a syringe. The safety device of Claim 10 comprises a pair of elongated arms and a means for enabling the arms to be moved between an open orientation and a closed orientation. The elongated arms each including a first end, a second end and a first size container receiving recess positioned between the first and second ends. The means for enabling the arms to be moved between an open orientation and a closed orientation is connected to each one of the arms adjacent the first end for enabling the arms to be moved between an open orientation and a closed orientation. The first size container receiving recess of each one of the arms jointly defines a first size container receiving receptacle when

the arms are in the closed orientation. The first size container receiving recess of at least one of the arms includes a surface configured for engaging side portions of a container disposed therein and a surface configured for engaging a bottom portion of the container whereby the first size container receiving recess of at least one of the arms is configured for engaging the container at the bottom and side portions thereof.

Claim 17, as amended, recites a safety device for holding a container while extracting a liquid contents therefrom with a syringe. The safety device of Claim 17 comprises a pair of elongated arms and a hinge arrangement. The pair of elongated arms each includes a first end, a second end and a plurality of different size container receiving recesses positioned between the first and second ends. The hinge arrangement is disposed between the arms adjacent the first ends of the arms thereby enabling the arms to be moved between an open orientation and a closed orientation. The different size container receiving recesses of each one of the arms jointly define respective size container receiving receptacles when the arms are in the closed orientation. The different size container receiving recesses of at least one of the arms each include a surface configured for engaging side portions of a respective container disposed therein and a surface configured for engaging a bottom portion of the respective container whereby the different size container receiving recesses of at least one of the arms are each configured for engaging the respective container at the bottom and side portions thereof.

The Applicant submits that neither Ungelsby, Whalen nor Seibel (i.e., the cited and relied upon references) disclose the device recited in any one of amended Claims 1, 10 and 17. Specifically, the none of these the cited and relied upon references disclose a device having a surface configured for engaging side portions of a container disposed within a

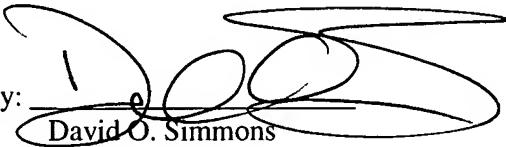
container receiving receptacle of the respective device and a surface configured for engaging a bottom portion of the container whereby the device engages and supports a side portion and a bottom portion of the container. The rear surface is useful in that it serves to positively locate the container within the receptacle, thereby greatly reducing the potential for the container passing completely through the receptacle when the arms are in the closed position. Additionally, the Applicant further submits that the bar (50) of Ungelsby is not intended to or capable of providing the functionality of the rear surface of the claimed invention.

In view of the amendments made to independent Claims 1, 10 and 17 and the associated remarks, the Applicant submits that independent Claims 1, 10 and 17, and hence all claims dependent thereon, are patentable under 35 U.S.C. 102(b) over the cited and relied upon references because these amended claims recite features, physical structure and/or function not present in, configured for being provided by, or intended to be provided by the cited and relied references, and therefore distinguish physically over the cited and relied upon references. Accordingly, the Applicant submits that the rejections under 35 U.S.C. § 102(b) applied to Claims 1-21 as being anticipated by Ungelsby, Whalen and/or Seibel are overcome and respectfully requests the Office to withdraw the rejections asserted against Claims 1-21 under 35 U.S.C. § 102(b) as being anticipated by Ungelsby, Whalen and/or Seibel.

CONCLUSIONS

The Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for reasons clearly apparent, the Applicant respectfully requests full allowance of all pending claims. If there are any matters that can be discussed by telephone to further the prosecution of the Application, the Applicant invites the Examiner to contact the undersigned at 512-345-9767 at the Examiner's convenience.

Respectfully Submitted,
Terry J. Beal

By: 

David O. Simmons
Reg. No. 43,124
7637 Parkview Circle
Austin, Texas 78731
512-345-9767
512-345-0021 (fax)